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July 16, 2007

Via Email & First Class Mail

John A. Carrigan, Section Chief
Solid Waste Management
DEP-Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

Re: New Ventures Associates, LLC; Crow Lane Landfill, Newburyport, MA; Odor Control Measures – Southwest Corner; FMF No. 39545; Notice of Intent - Default Notice Standby Trust

Dear Mr. Carrigan:

This office is in receipt of the Department's letter dated July 2, 2007 (the "Notice") with respect to the alleged failure to conduct closure and corrective actions at the Crow Lane Landfill (the "Landfill"). New Ventures Associates, LLC ("New Ventures") hereby states that, to the extent that the Department attempts to withdraw funds from the Standby Trust, it is in violation of said Standby Trust Agreement and shall be liable for all costs associated therewith.

We respond to the items listed in the Notice as follows:

1. New Ventures has performed the activities necessary to control or eliminate the release or the threat of release of landfill gas and leachate from the Landfill in compliance with the Preliminary Injunction (the "Order"). New Ventures has taken corrective actions, covered the southwest corner of the Landfill and has increased the draw from the wells in that area. New Ventures isolated the potential source of landfill emissions to the liner at the toe of the slope on the southwest corner. As previously stated, at the time of the completion of the Flexible Membrane Liner ("FML") on the second phase of the landfill closure during the winter of 2006-2007, New Ventures was unable to drop the FML vertically at the base of the perimeter slope at the southwest corner due to the frozen ground. As a result of the frozen ground, the FML was extended horizontally along the elevation of the berm at the time. The berm was then covered. New Ventures was aware that the berm design, which added ten to fifteen feet of soil material above the perimeter, would be a sealant in addition to offering additional structural support.

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However, since the Department has not allowed the construction of the berm this year, it has resulted in the exposure to landfill gases. New Ventures informed the Department that the correction of this matter due to the failure of the berm to be approved would result in the exposure of landfill gases as it dug a trench to tie in the FML below the slope. Since the Notice was received, New Ventures has performed the remedial work under the supervision of SITEC by anchoring the FML during the past two weeks as required by the Department. New Ventures has almost completed this corrective action.

On this basis, New Ventures is performing the actions necessary to control the release or threat of release of landfill gas and there are no actions or tasks necessary from the Department or reason to access the financial assurance mechanism ("FAM"). There is no violation of paragraph 6 of the Trust.

2. New Ventures has been pumping the leachate collection tanks (with the exclusion of Tank 4) in accordance with the Order. New Ventures intends to bring in a vacuum truck to address the limited leachate that remains on the easterly side of the Landfill. No funds are necessary to be extended for this work.

3. New Ventures responded to the geotechnical evaluation required by the Preliminary Injunction and has provided extensive information to the Department dated May 30, 2007. The Department submitted a limited response to the SITEC evaluation in its July 4, 2007 Paragraph 9 letter. The July 4, 2007 letter identified three (3) information deficiencies which are being addressed by SITEC. The Department has no evidentiary basis to ask for additional borings. Please note that under separate cover, the Department has requested additional information. New Ventures has transmitted this material to SITEC to address whether there were gaps in SITEC's berm analysis or in the Geocomp Corporation report. New Ventures states that it is premature and inappropriate for the Department to access the Trust funds on this analysis during SITEC's review.

4. New Ventures has placed the required cover on the Landfill as stated by the Preliminary Injunction. As previously noted, New Ventures is the only C&D Landfill that is required to place tarps on the inactive portions of the Landfill. At present, the tarps cover all inactive areas of the Landfill as required by the Preliminary Injunction. In addition, New Ventures will have access to soils in the immediate future. There is no basis to access FAM funds for this alleged violation.

The intent of paragraph 6 of the Standby Trust is to provide the Department with access to the FAM. New Ventures has expended considerable monies well in excess of \$1,000,000.00 more than was contemplated by the prospectus attached to the initial closure filing in 2003 and has not abandoned the closure at any time. New Ventures installed an expensive pretreatment system, accelerated the closure of a portion of the Landfill and has enhanced the berm design. The only time that New Ventures has not been able to move forward with the closure is when it has been prevented by the Department or the City from proceeding with the closure. The

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Department's actions in halting the closure of the Landfill has resulted in the extended exposure of landfill gases to the residents of the City of Newburyport. New Ventures has forewarned the Department on several occasions that its actions have been shortsighted and counter to the intent of the Injunction to close the Landfill.

New Ventures has never been accused of placing improper materials at the Landfill. Rather, materials have been placed in accordance with the Department's Solid Waste Master Plan and are contained on its list of approved materials for closure. New Ventures has spent extraordinary sums to address the Department's ever changing policy. It is neither appropriate nor equitable for the Department to require New Ventures to correct a problem that the Department created at a higher cost, to halt the closure and then to access the Trust monies because the Landfill is not capped. New Ventures installed a landfill gas extraction system that has operated for the past nine months and has removed landfill gases with a 95% or greater destruction rate of H²S in compliance with the Order. If the Department had allowed the closure to go forward as agreed in October 2006, the closure and capping of the Landfill would be nearly complete. New Ventures states that the Department has no legal right to access the Trust pursuant to paragraph 6 at this time. The Department has failed to establish what corrective action or closure tasks have not been performed in accordance with the Order. The Notice is premature. The Department's continued interference has served to exacerbate rather than assist in the problem. The Commonwealth should allow New Ventures to close the Landfill in accordance with its plans.

To the extent that the Department seeks to exercise any rights to access the Trust funds, New Ventures will hold the Department responsible for all consequences as a direct result of its actions.

Thank you.

Sincerely,

Richard A. Nylén, Jr.

RAN/kad

cc: Matthew C. Ireland, Esq.
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